

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE  
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM #1 Suspension of New Admissions

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held on May 9, 2018, at the following address:

Office Building # 8  
744 P St. Room 103  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only if attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The CDSS will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you need a language interpreter at the hearing (including sign language), please notify CDSS at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on May 9, 2018.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. Except for nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at [CDSS Public Hearings for Proposed Regulations](http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information) (<http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information>). Additionally, all the information which CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed below. Following the public hearing, copies of the Final Statement of Reasons will also be available at the following address:

CONTACT: California Department of Social Services  
Office of Regulations Development  
744 P. Street, MS 8-4-192  
Sacramento, CA 95814  
Tel: (916) 657-2856, Fax: (916) 654-3286  
Email: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

## CHAPTERS

Adopting Title 22 sections 87764 and 87765

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Residential Care Facilities for the Elderly (RCFE) Act provides for the licensure and regulation of RCFEs. Pursuant to Health and Safety Code section 1569.2, RCFEs are a housing arrangement, chosen by individuals who are typically 60 years of age or older, that provide care and supervision, protective supervision, or personal care based on the needs of the individual.

As part of the RCFE Reform Act in 2014, the Legislature passed Senate Bill (SB) 1153, Chapter 706 (Statutes of 2014), effective January 1, 2015, which added section 1569.545 to the Health and Safety Code. This bill authorized the Department to prohibit a licensee from admitting new residents when the licensee is cited for a violation that presents a direct and immediate risk to the health, safety, or personal rights of a resident and the violation is not corrected immediately. The bill also authorized the Department to order a suspension of new resident admissions when the licensee has failed to pay fines assessed by the Department after the licensee's appeal rights have been exhausted. Suspension of new admissions is defined as a prohibition on admitting new residents to receive care or services in the facility. SB 1153 requires the Department to develop an appeals process for licensees who wish to appeal the suspension on new admissions.

The proposed regulations prescribe a process in which the Department will carry out a suspension of new resident admissions. The process includes how to serve a notice to suspend new resident admissions, what the notice of the order to suspend new resident admissions shall include, required postings of the notice and other information as specified. This prescribed process will help to ensure consistency and transparency of Departmental operations. The proposed regulations will also implement an appeal process. The appeal process will provide licensees who wish to appeal the suspension of new resident admission with their due process rights. The appeal process will function both as a process for error correction as well as a process of clarifying and interpreting statute and regulation.

The proposed regulations outline a process that will ultimately help to ensure the protection of current and prospective residents of RCFEs. After conducting an evaluation for any other regulations related to this area, the Department finds that these are the only regulations concerning the suspension of new admissions in Residential Care Facilities for the Elderly. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

### COST ESTIMATE

1. Costs or Savings to State Agencies: The FY 2015-16 budget act provided authority for three and a half (3.5) ongoing positions and approximately \$466,000 in ongoing costs to implement the requirements of SB 1153 (Chapter 706, Statutes of 2014).
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500 - 17630: None

3. Nondiscretionary Costs or Savings to Local Agencies: None

4. Federal Funding to State Agencies: None

#### LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

The CDSS has determined there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

#### STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### **Creation or Elimination of Jobs Within the State of California**

The proposed regulation conforms to SB 1153 (Chapter 706, Statutes of 2014). The proposed regulation implements state law. If there were to be any impact on the creation or elimination of jobs within the State of California, it would be a result of the passage of the enacting law, not the regulation. Therefore, the Department has determined that this regulatory proposal will not have an impact on the creation or elimination of jobs in the State of California.

#### **Creation of New or Elimination of Existing Businesses Within the State of California**

The proposed regulation conforms to SB 1153 (Chapter 706, Statutes of 2014). The proposed regulation implements state law. If there were to be any impact on the creation of new businesses or the elimination of existing businesses within the State of California, it would be a result of the passage of the enacting law, not the regulation. Therefore, the Department has determined that this regulatory proposal will not have an impact on the creation or elimination of existing businesses within the State of California.

## **Expansion of Business Within the State of California**

The proposed regulation conforms to SB 1153 (Chapter 706, Statutes of 2014). The proposed regulation implements state law. If there were to be any impact on the expansion of businesses currently doing business within the State of California, it would be a result of the passage of the enacting law, not the regulation. Therefore, the Department has determined that this regulatory proposal will not have an impact on the expansion of businesses currently doing business within the State of California.

## **Benefits of the Regulations**

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: 1) require RCFEs to immediately resolve serious health, safety, and personal rights violations before admitting new residents; and 2) equip the Department with a more rigorous enforcement tool to ensure facilities comply with regulations specific to serious health, safety, and personal rights of residents. The promulgation of these regulations is necessary to carry out the Community Care Licensing Division's core function of protecting the health and safety of vulnerable elderly population in licensed residential care.

## **STATEMENT OF EFFECT ON HOUSING COSTS**

The proposed regulatory action will have no effect on housing costs.

## **STATEMENT OF ALTERNATIVES CONSIDERED**

The Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

## **AUTHORITY AND REFERENCE CITATIONS**

The Health and Safety Code section 1569.30 is giving CDSS the authority to develop these regulations and Health and Safety Code sections 1569.545 and 1569.50 are being referenced to make these regulations more specific.

## **CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION**

Contact Person:	Sylvester Okeke	(916) 657-2586
Backup:	Oliver Chu	(916) 657-2586